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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,833	03/06/2002	Ann Dink-Sybelden		5812

7990 01/21/2004

Viskase Corporation  
Patent and Trademark Department  
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EXAMINER

MADSEN, ROBERT A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/090,833

Examiner

Robert Madsen

Applicant(s)

DINH-SYBELDON ET AL

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,8,9,13, 14,23,26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith et al.(US 4442868).
3. See Abstract, Column 4, lines 43-58,Column 5, lines 40-50,60-68,column 6, lines 14-22, 56-68,Column 7, lines 33-54, Column 8, lines 37-45, column 10, line 62 to Column 11, line 2, and Column 11, lines 10-25. Note that casings made of non-reinforced regenerated cellulose are understood to be cellophane (Column 7, lines 67 to Column 8, line 15).
4. Claims 15,19,20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Smith et al.(US 4442868).
5. See Abstract, Column 4, lines 43-58,Column 5, lines 40-50,60-68,column 6, lines 14-22, 56-68,Column 7, lines 33-54, Column 7, lines 67 to Column 8, line 15,Column 8, lines 37-45, column 10, line 62 to Column 11, line 2, and Column 11, lines 10-25. Note that casings made of non-reinforced regenerated cellulose are understood to be cellophane (Column 7, lines 67 to Column 8, line 15).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1,4,5, 23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US 1589106) in view of Smith et al.(US 4442868).
8. Campbell teaches storing meat in paper wrappers to transfer liquid smoke flavor to the meat wherein the wrappers are saturated with liquid smoke, and thus greater than 10%, on the interior of the wrapper and wax on the exterior of the wrapper to serve as a barrier (Lines 1-30) as recited in claims 1,4,5,23,and 27. However, Campbell is silent in teaching adding a peeling aid, as recited in claims 1, 23, and 27.
9. Smith et al. teach natural casings having outer barriers which are impregnated with liquid smoke from 39-100% that may be used in casing used in cooking or storing, as taught by Campbell, may further include a peeling aid, or release agent, to remove the casing (Column 5, lines 60-66, Column 6, lines 55-68, Column 7, lines 33-54, Column 7, lines 67 to Column 8, line 15, and Column 11, lines 10-25.)
10. Therefore, it would have been obvious to modify Campbell and include a peeling agent since Smith et al. teach this will assist in wrapper removal.
11. Claims 2 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US 1589106) in view of Smith et al.(US 4442868) as applied to claims 1,4,5, 23, and 27, further in view of Hoglund et al. (US 6514553 B1).

12. Campbell is silent in teaching any particular basis weight or wet strength. Hoglund et al. also teach paper substrates for packaging meat. Hoglund et al. teach the conventional basis weight is at least 12.3 grams per sq m and the wet strength is increased/affected by the amount and type of material impregnated into the paper casing (Column 1, line 58 to Column 2, line 25 and Column 2, line 65 to Column 3, line 2, Table 1). Therefore, it would have been obvious to select a basis weight of at least 12.3 grams per sq m since Hoglund et al. teach this was a conventional paper-based casing basis weight. To achieve any particular wet strength would have been an obvious result effective variable of the amount and material used to "saturate" the paper (e.g. liquid smoke and peeling aid) since Hoglund et al. teach these materials and quantities affect wet strength.
13. Claims 15, 19, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US 1589106) in view of Smith et al. (US 4442868).
14. Campbell teaches storing ham in paper wrappers to transfer liquid smoke flavor to the meat wherein the wrappers are saturated with liquid smoke, and thus greater than 10%, on the interior of the wrapper and wax on the exterior of the wrapper to serve as a barrier (Lines 1-30) as recited in claims 15, 19, and 20. However, Campbell is silent in teaching adding a peeling aid or a particular liquid smoke pH, as recited in claim 15.
15. Smith et al. teach natural casings having outer barriers, which are impregnated with liquid smoke, which conventionally have a pH of 2.5-5, having a pH of 9-13 for ease of application without deterioration at 39-100%. The casing is used in casing used

in cooking or storing, as taught by Campbell, may further include a peeling aid, or release agent, to remove the casing (Column 5, lines 6-21, 60-66, Column 6, lines 14-22, 55-68, Column 7, lines 33-54, Column 7, lines 67 to Column 8, line 15, and Column 11, lines 10-25.)

16. Therefore, it would have been obvious to modify Campbell and include a peeling agent since Smith et al. teach this will assist in wrapper removal. It would have been further obvious to select a pH of 9-13, since Smith et al. teach this prevents deterioration of the casing during storage.

17. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Campbell (US 1589106) in view of Smith et al. (US 4442868) as applied to claims 15, 19, and 20, further in view of Hoglund et al. (US 6514553 B1).

18. Campbell is silent in teaching any particular basis weight or wet strength. Hoglund et al. also teach paper substrates for packaging meat. Hoglund et al. teach the conventional basis weight is at least 12.3 grams per sq m and the wet strength is increased/affected by the amount and type of material impregnated into the paper casing (Column 1, line 58 to Column 2, line 25 and Column 2, line 65 to Column 3, line 2, Table 1). Therefore, it would have been obvious to select a basis weight of at least 12.3 grams per sq m since Hoglund et al. teach this was a conventional paper-based casing basis weight. To achieve any particular wet strength would have been an obvious result effective variable of the amount and material used to "saturate" the paper

(e.g. liquid smoke and peeling aid) since Hoglund et al. teach these materials and quantities affect wet strength.

19. Claims 3 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 1,8,9,13, 14,23,26 above.

20. Smith et al. teach the casing should be used by conventional machinery and provide sufficient shelf life during commercial distribution (Column 2, lines 17-44, Column 8, lines 46-57). Therefore, to select any particular basis weight and MD or CD strength would have been an obvious result effective variable the particular strength and basis weights required for conventional machine handling, as well as to provide sufficient protection during commercial distribution.

21. Claim 6,7,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 1,8,9,13, 14,23,26 further in view of Owensby (US 6196960 B1).

22. Smith teaches oleoresins and flavoring agents, but is silent in teaching caramel at a ratio to liquid smoke of 1:20 to 20:1, paprika, pepper, garlic or onion (Column 7, lines 67 to Column 8, line 45, Column 11, lines 10-25).

23. Owensby also teach adding liquid smoke, caramel and spices such as pepper ,paprika, to a food held within a casing with carboxymethyl cellulose and liquid smoke (Column 2, lines 1-52,column 3, lines 49-59, column 4, lines 38-42). Therefore, it would have been obvious to add caramel, pepper or paprika in addition to the liquid smoke

since these were known flavoring agents for casings and one would have been substituting one conventional flavor agent for another for the same purpose. Furthermore, to select any particular ratio of caramel to liquid smoke would have been an obvious result effective variable of the desired sweetness of the food item, since caramel would impact the perceived sweetness of the encased food item.

24. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 1,8,9,13, 14,23,26 further in view of Hammer et al. (US 5690977).

25. Smith teaches a peeling aid such as carboxymethyl cellulose, but is silent in teaching lecithin.

26. Hammer et al. also teach tubular liquid smoke impregnated regenerated cellulose food casings and treating the inner surface with carboxymethyl cellulose. However, Hammer et al. further teach that carboxymethyl cellulose, especially when in combination with lecithin will enhance aroma/flavor retention of the casing and the aroma/flavor transfer to the food(Column 3, lines 19-32, Column 4, lines 27-60, Column 5, lines 25-50). Therefore, it would have been obvious to further include lecithin since the ability of carboxymethyl cellulose's ability to enhance the aroma/flavor retention of the casing and the aroma/flavor transfer to the food is improved with the addition of lecithin.



27. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 15,19,20.

28. Smith et al. teach the casing should be used by conventional machinery and provide sufficient shelf life during commercial distribution (Column 2, lines 17-44, Column 8, lines 46-57). Therefore, to select any particular basis weight and MD or CD strength would have been an obvious result effective variable the particular strength and basis weights required for conventional machine handling, as well as to provide sufficient protection during commercial distribution.

29. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 15,19,20 above, further in view of Rasmussen et al. (US 4470171).

30. Smith et al. teach the casing is used for ham, but is silent in teaching netting. Rasmussen et al. teach is desirable to place ham packed into casing into a netting to allow for hanging and maintaining a desired shape (Column 18, lines 38-60) Therefore, it would have been obvious to place netting around the casing of Smith et al. since Smith et al. teach the meat may include ham and it is desirable to place ham packed into casing into a netting to allow for hanging and maintaining a desired shape.

31. Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al.(US 4442868) as applied to claims 15,19,20 further in view of Apfeld et al. (US 5230933).

32. Smith teaches a peeling aid such as carboxymethyl cellulose, but is silent in teaching lecithin.
33. Hammer et al. also teach tubular liquid smoke impregnated regenerated cellulose food casings and treating the inner surface with carboxymethyl cellulose. However, Hammer et al. further teach that carboxymethyl cellulose, especially when in combination with lecithin will enhance aroma/flavor retention of the casing and the aroma/flavor transfer to the food (Column 3, lines 19-32, Column 4, lines 27-60, Column 5, lines 25-50). Therefore, it would have been obvious to further include lecithin since the ability of carboxymethyl cellulose's ability to enhance the aroma/flavor retention of the casing and the aroma/flavor transfer to the food is improved with the addition of lecithin.

### ***Conclusion***

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hollenbeck (US 3330669) teach paper. Smith (US 4446167) teaches impregnated regenerated cellulose casings with liquid smoke and a peeling aid. Rose et al. (US 3427169) teach paper casings impregnated with liquid smoke.
35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Madsen whose telephone number is (571) 272-1402. The examiner can normally be reached on 7:00AM-3:30PM M-F.

Art Unit: 1761

36. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

37. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0061.

Robert Madsen  
Examiner  
Art Unit 1761



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